

# Will County Local Emergency Planning Committee

## BY-LAWS

WHEREAS, the Superfund Amendments and Reauthorization Act of 1986 (SARA) was enacted by Congress into law on October 17, 1986; and,

WHEREAS, the State of Illinois enacted the Illinois Emergency Planning and Community Right to Know Act, P.A. 86-449, on August 30, 1989, as amended; and,

WHEREAS, Title III establishes requirements that federal, state and local governments and industry must implement regarding Emergency Planning and Community Right-to-Know reporting on hazardous and toxic chemicals; and,

WHEREAS, pursuant to Title III, the State Emergency Response Commission (SERC) designated Will County a local emergency planning district and has appointed a local emergency planning committee for Will County; composed of representatives from the following groups or organizations: state and local officials, local environmental groups, law enforcement, hospital, local government EMA, transportation, fire fighting, broadcast and print media, first aid or emergency medical services, community groups, health, and, owners and operators of facilities subject to Section 620.90 of the State of Illinois EPCRA Rule. This committee has been named the Will County Local Emergency Planning Committee (hereafter referred to as "the Committee"); and,

WHEREAS, the Will County Emergency Planning Committee shall comply with, at a minimum, the sections as outlined in 29 Illinois Administrative Code 620, as amended and, as contained as Exhibit A of these by-laws.

NOW THEREFORE BE IT RESOLVED that the Will County Local Emergency Planning Committee be created and shall operate according to the following by-laws.

### **ARTICLE I - ORGANIZATION**

Section I. **Name of Committee:** The name of the Committee shall be the "Will County Local Emergency Planning Committee".

Section II. **Status of Committee:** The Committee shall operate as a governmental entity pursuant to and in strict accordance with all applicable laws, regulations, guidelines and ordinances.

Section III. **Mailing Address and Telephone Number:** The official mailing address and telephone number of the Committee shall be:

Will County Local Emergency Planning Committee  
302 North Chicago Street  
Joliet, IL 60432  
815/740-8351 (office)  
815/740-0911 (24 hr emergency)

Section IV. **Monies and Appropriations:** The Committee may receive and disburse public and private funds for the purpose of implementing the Emergency Planning and Community Right-to-Know Act of 1986 in Will County, Illinois. Such monies shall be deposited with the First Midwest Bank. All disbursements will require prior authorization by the Chairperson by category or

specific item. Monthly financial reports must be submitted to the Executive Board at their regular meetings. Full committee members will receive periodic financial reports at their meetings. Financial reports will be placed on file for audit and will be audited by the Rules Sub-Committee on an annual basis. Signatures required on disbursements are two and may be signed by the Chairperson, Emergency Planning Coordinator and/or the Secretary/Treasurer of this Committee.

Section V. **Fees:** Reasonable administrative fees may be collected for information provided or services rendered by the Committee. The fees collected shall be as established or recommended by local, state or federal law, regulation, guideline or ordinance. Person(s) requesting copies of material safety data sheets or tier information will be charged a copying fee of \$1.00 for the first page, \$.50 per page for the second through fifth page and, \$.25 per page for every other page thereafter, or as otherwise charged by the Will County Clerk's Office.

Section VI. **Minutes of Committee Meetings:** Minutes of all of the meetings of the Committee and Sub-Committee shall be kept in a journal of the Committee, which shall be maintained for such purpose. Minutes shall include, but not be limited to, a record of all votes of the Committee, a record of attendance at meetings and a summary of Committee discussions. The minutes of each meeting shall be mailed to each Committee member subsequent to each Committee meeting.

Section VII. **Agenda for Committee Meetings:** An agenda of each Committee meeting shall be mailed or delivered to each Committee member prior to each Committee meeting, unless a majority of a quorum of Committee members present at a meeting at which a vote is taken to eliminate this requirement. Should this requirement be eliminated, it can be reinstated by a majority vote of a quorum of Committee members present at a meeting at which a vote is taken. The agenda for the next meeting may be mailed or delivered to each Committee member at the same time as the minutes of the last meeting. This requirement can be eliminated in the same manner as the requirement that an agenda be mailed to each Committee member prior to each meeting. However, an agenda for each meeting shall always be mailed or delivered to each person or entity whose name and address are found on the list of those to whom notice is required. The list to whom notice is required shall be provided to the Committee and updated as needed by the Committee's Emergency Public Information Coordinator.

## **ARTICLE II - OFFICERS**

Section I. **Officers:** The Officers of the Committee shall be a Chairperson, Emergency Planning Coordinator, Emergency Public Information Coordinator and Secretary/Treasurer. Additionally, each sub-committee will have a Chairperson and Secretary.

Section II. **Chairperson:** The Chairperson shall preside at all meetings of the Committee, be responsible for preserving order and decorum; and submit recommendations and information as he or she may consider proper concerning the business, affairs and policies of the Committee. Except as otherwise authorized by these bylaws or by resolution of the Committee, the Chairperson shall sign, or delegate to the Emergency Planning Coordinator the authority to sign, all official documents of the Committee. The Chairperson shall establish or authorize the Emergency Planning Coordinator to establish suggested contribution and reimbursement amounts for emergency responses provided by the Committee. The Chairperson shall also insure that an agenda or each Committee meeting is mailed or delivered as provided by Article I - Section VII. The Chairperson will also serve as Chairperson of the Executive Board.

Section III. **Emergency Planning Coordinator:** The Emergency Planning Coordinator shall be the Vice Chairperson and perform the duties of the Chairperson in the absence or incapacity of the Chairperson. In case of the resignation or death of the Chairperson, the Emergency Planning Coordinator shall perform such duties as are imposed on the Chairperson until such time as the Committee shall elect a new Chairperson. The Emergency Planning Coordinator shall have the authority to sign official documents of the Committee or establish fees to be collected by the Committee pursuant to authority delegated by the Chairperson. The

Emergency Planning Coordinator shall insure that any information gathered by the Committee or submitted pursuant to requirements established by the Committee, is stored at the office of the Will County Emergency Management at the address provided in Article I - Section III. The Emergency Planning Coordinator shall insure that minutes of the meetings of the Committee are kept and distributed in the manner prescribed by Article I - Section VI. The Emergency Planning Coordinator will be a member of the Executive Committee and ex-officio-member of all other sub-committees.

**Section IV. Emergency Public Information Coordinator:** The Emergency Public Information Coordinator, upon request, shall make the minutes available no later than ninety (90) days after the date of the meeting. In addition the Emergency Public Information Coordinator shall be the official spokesperson for the Committee during critical incidents and shall be responsible for the release of any and all information on behalf of the Committee.

**Section V. Secretary/Treasurer:** The Secretary/Treasurer will be responsible for insuring the recording and typing of minutes at Committee meetings and that an agenda is prepared outlining the proceeding for the meetings. The Secretary/Treasurer will be responsible for the preparation and distribution of financial reports in the manner as prescribed by Article I - Section VI. The Secretary/Treasurer will be an ex-officio-member of all sub-committees preparing proceedings and minutes as submitted by sub-committee secretaries.

**Section VI. Sub-Committee Chairpersons:** The Sub-Committee Chairpersons will be appointed by the LEPC Chairperson, with the approval of a majority vote of the Committee members, and will perform subscribed duties as stated for their committee under Article V.

**Section VII. Sub-Committee Secretary:** The Sub-Committee Secretaries will be appointed by the members of that sub-committee and will record minutes of their proceedings and submit them to the Secretary/Treasurer for typing and distribution.

**Section VIII. Additional Duties:** The officers of the Committee shall perform such other duties and functions as may be required from time to time by the Committee, by-laws or rules and regulations governing the Committee.

**Section IX. Election:** The officers shall be elected for two (2) years at the Annual Meeting from among the members of the Committee and shall hold office from the annual meeting, at which they are elected, to the second annual meeting or until their successors are elected and qualified. The officers may be re-elected and serve for successive terms.

**Section X. Vacancies:** Should the office of Chairperson or Emergency Planning Coordinator become vacant, the Committee shall elect a successor from its membership at the next meeting and such election shall be for the unexpired term of said office. Should a vacancy occur in any office, the Chairperson shall appoint a member of this Committee to fill the vacancy for the remainder of the unexpired term.

**Section XI. Authority to Contract:** Should funds ever be appropriated to the Committee for this purpose, the Committee may contract as it deems necessary to exercise its powers, duties and functions as prescribed by federal, state and local laws, rules, regulations or guidelines. The scope and services of such contracts shall be determined by the Committee subject to any applicable laws.

### **ARTICLE III - MEETINGS**

**Section I. Annual Meeting:** The annual meeting of the Committee shall be the first meeting held after January 1st of each year at a time and location designated in the "Notice of Annual Meeting" mailed or delivered to each Committee member at least seven

(7) days before such meeting. Election of officers, renomination and nomination shall take place on the odd numbered years (ie: 2001, 2003, 2005, 2007, 2009, 2011), and shall occur in the following order: 1.) renomination; 2.) nomination; and, 3.) election. Those who may vote and run for office are those persons who have been nominated or renominated and are members of the committee.

**Section II. Meetings:** Meetings of the Committee shall be subject to the call of the Chairperson. At least seven (7) days notice of the meeting shall be provided to all Committee members by mailing or delivering a written notice to the address provided by the member to the Committee. The written notice of the meeting may be mailed or delivered with the agenda for the meeting. The news media shall be informed of meeting dates, times and places.

**Section III. Special Meetings:** The Chairperson of the Committee may, when it is deemed necessary, and shall, upon the written request of at least two members of the Committee, call a special meeting of the Committee for the purpose of transacting any business of the Committee. The purpose of this meeting shall be set forth in the call of the meeting and the call may be accomplished by fax, telephone notification, and/or hand delivery to each Committee member and the news media at the address provided to the Committee at least 48 hours prior to such meeting. At a special meeting no business shall be considered other than as designated in the call.

**Section IV. Quorum:** The powers of the Committee shall be vested in the Committee. Forty percent (40%) of the Committee membership shall constitute a quorum for the purpose of opening a meeting. At a meeting, action may be taken pursuant to an affirmative vote of a majority of all those present, unless a majority of those present is less than the number required for a quorum, then action may be taken upon an affirmative vote of the number required for a quorum.

**Section V. Order of Business:** At meetings of the Committee the following shall be the order of business:

1. Call meeting to order
2. Roll Call
3. Reading & approval of minutes from the previous meeting
4. Financial Report
5. Introduction of Guest(s)
6. Sub-Committee Reports
7. Report of Emergency Planning Coordinator
8. Report of LEPC Chairman
9. Old Business
10. New Business
11. Public Comment
12. Comments of Committee Members
13. Adjournment

Any member of the public and/or media may address the Committee for any given reason. That person will be allowed five minutes to make his/her comments, unless otherwise approved by the Committee, or has been given permission at least five days prior to the Committee meeting to present a program.

The Committee will operate and utilize the Order of Business from ROBERTS RULES OF ORDER.

Section VI. **Manner of Voting:** The voting on all questions coming before the Committee shall be by ye or nay, or a show of hands, unless action is taken for a roll call vote on a particular matter. If a roll call vote is approved, the yeas and nays shall be recorded in the minutes of such meeting.

Section VII. **Manner of Conducting Meetings:** No standard rules of procedures shall be required unless adopted by an unanimous vote of a quorum of the Committee members. The meetings shall be conducted with order and decorum. The Committee shall follow the procedures determined appropriate by the Chairperson of the Committee, which may include but not limited to:

1. No person shall speak unless first recognized by the Chairperson.
2. Debate on a matter shall be closed by a motion and second to bring the matter to a vote.
3. Any member of the Committee may make or second a motion.

Section VIII. **Participation by Members of the Public:** Members of the public are encouraged to attend all regular, special and annual meetings of the Committee. An opportunity will be provided at each meeting for members of the public to address the Committee on matters relating to local emergency preparedness. A member of the public who desires to address the Committee may mail a written notice of intent to appear to the Chairperson at the address found in Article I - Section III and then sign in with the Emergency Planning Coordinator at the time and place of the meeting before the meeting begins. Members of the public who appear at the meeting and wish to address the Committee will be allowed to do so without a prior written notice of intent to appear; however, they will be required to wait until after any members of the public who have provided written notice of intent to appear have spoken. Members of the public that have provided written requests or appear at the meeting to make comment will be allowed five minutes to make such comment. Members of the public are also encouraged to provide written opinions and information to the Committee by mailing written materials to the Chairperson at the address found in Article I - Section III. Members of the public include, but are not limited to, citizens, industry representatives, experts, expert witnesses' governmental entity representatives and the media.

#### **ARTICLE IV - MEMBERSHIP**

Section I. **Members:** The members of the Committee shall consist of no more than twenty-seven (27) members with a minimum of one individual from each of the following categories and no more than six (6) from any one category: state and local officials, local environmental groups, law enforcement, hospital, local government EMA, transportation, fire fighting, broadcast and print media, first aid or emergency medical services, community groups, health, and, owners and operators of facilities subject to Section 620.50 of the State of Illinois EPCRA Rule. All memberships are submitted by the Executive Board for submittal by the County Executive for appointment by the Governor.

Section II. **Attendance at Meetings:** All members of the Committee are required to attend at least fifty percent (50%) of all meetings of the Committee held in any twelve (12) consecutive months, unless excused. A Committee member will be excused from a meeting for good cause and upon notification to the Chairperson or the Emergency Planning Coordinator.

Section III. **Removal from Membership:** Any member may be removed for violation of Section II or change in representative status as determined by the Executive Board and recommended by the County Executive.

Section IV. **Proxy Representatives:** If a Committee member will be unable to attend a Committee meeting, a proxy representative may attend for that member. The proxy representative may take part in discussions of the Committee on behalf of the absent Committee member and shall be allowed to move, second or vote on any matters before the Committee. The Committee member

must provide a signed letter to the Secretary prior to the meeting, stating the name of the proxy representative and what the proxy representative has approval to vote on.

#### **ARTICLE V - SUBCOMMITTEES**

Section I. **Appointment of Subcommittees:** The Chairperson may appoint subcommittees composed of members of the Committee to study a report on matters relevant to the Committee. All subcommittee meetings are open to all members. The following standing subcommittees are already in force: Executive Board, Planning, Public Information and Rules, these subcommittees shall not consist of less than three (3) members unless otherwise stated.

Section II. **Executive Board:** The Executive Board shall be chaired by the LEPC Chairperson. The Executive Board shall be a nine (9) member Board, which shall consist of the LEPC Chairperson, Emergency Planning Coordinator, Emergency Public Information Coordinator and, Secretary/Treasurer. In addition, five (5) other members of the Committee shall be appointed by the Chairperson. A quorum of the Executive Board to conduct business shall be a minimum of five (5). The duties shall include recommending appointments for membership; gathering and approving information between meetings; and, securing and seeking funding for the Committee to operate.

Section III. **Planning Sub-Committee:** The Planning Sub-Committee is the overall committee in working with the regulated facilities to gather data in the development and updating of the planning requirements set forth under Title III "Emergency Planning and Community Right-to-Know Act of 1986".

Section IV. **Public Information Sub-Committee:** The Public Information Sub-Committee purpose is to develop procedures and fees for request received from the public on material safety data sheets and tier information. This subcommittee is also in charge with the development and distribution of brochures and media packets on informing the public of the law and meetings.

Section V. **Rules Sub-Committee:** The Rules Sub-Committee is in charge of the development of procedures in how the Committee will operate and the development of rules that facilities must follow when making notification of events or emergencies. The committee must also conduct an annual audit of the Secretary/Treasurer's books and report financial condition at the annual meeting.

#### **ARTICLE VI — AMENDMENTS**

Section I. **Amendments to By-laws:** The by-laws of the Committee may be amended by an affirmative vote of 3/5ths of those members present. No vote shall be taken to amend the by-laws until the proposed amendment has been reduced to writing and mailed to each member fifteen (15) days prior to the meeting.

Section II. **Filing of By-laws and Amendments to By-laws:** A copy of the by-laws and any amendments to the by-laws shall be provided to: The Will County Executive, and the Members of the Will County Local Emergency Planning Committee and any person requesting a copy or copies. In addition, a copy will be placed on file with the Will County Clerk's Office.

ADOPTED BY THE LOCAL EMERGENCY PLANNING COMMITTEE FOR THE COUNTY OF WILL, THIS 25<sup>TH</sup> DAY OF JULY, 2001.

(Signatures on file)

Kerry R. Sheridan, LEPC Chairperson

Donald B. Gould, Emergency Planning Coordinator

## EXHIBIT A

### ILLINOIS EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW ACT

(P.A. 86-449, effective August 30, 1989, as amended by P.A. 87-168, effective January 1, 1992)

AN ACT in relation to emergency planning and notification. Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act shall be known and may be cited as the "Illinois Emergency Planning and Community Right to Know Act".

Section 2. Findings. The General Assembly finds that:

(1) The proliferation of hazardous substances in the environment poses a growing threat to the public health, safety and welfare; that the constantly increasing number and variety of hazardous substances, and the many routes of exposure to them, make it difficult and expensive to adequately monitor and detect any adverse health effects attributable thereto; that individuals themselves are often able to detect and to minimize effects of exposure to hazardous substances if they are aware of the identity of the substances and the early symptoms of unsafe exposure; and that individuals have an inherent right to know the full range of risks they face so that they can make reasoned decisions and take informed action concerning their employment and their living conditions.

(2) Local health, fire, police, safety and other governmental officials require detailed information about the identity, characteristics, and quantities of hazardous substances used and stored in communities within their jurisdictions, in order to adequately plan for, and respond to, emergencies, and enforce compliance with applicable laws and regulations concerning these substances.

(3) The extent of the toxic contamination of the air, water and land in this State has caused a high degree of concern among its residents; and that much of this concern is needlessly aggravated by the unfamiliarity of these substances to residents.

(4) It is in the public interest to establish a comprehensive program for the disclosure of information about hazardous substances in the workplace and the community, and to provide a procedure whereby residents of this State may gain access to this information.

Section 3. Definitions. As used in this Act:

(a) "Administrator" means the Administrator of the United States Environmental Protection Agency.

(b) "Environment" means water, air, and land and the interrelationship that exists among and between water, air, land, and all living things.

(c) "Extremely hazardous substance" means the list of substances designated as extremely hazardous by the United States Environmental Protection Agency under 42 U.S.C. 11002(a), as now or hereafter amended.

(d) "Facility" means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person (or by any person that controls, is controlled by, or under common control with, such person). For purposes of Section 304 of the Federal Act, the term includes motor vehicles, rolling stock, and aircraft.

(e) "Federal Act" means Title III of the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499)

(f) "Hazardous chemical" means any hazardous chemical as defined under 29 U.S.C. 1910.1200, except that "hazardous chemical" does not include the following substances:

(1) Any food, food additive, color additive, drug or cosmetic regulated by the U.S. Food and Drug Administration.

(2) Any substance present as a solid in any manufactured item to the extent that exposure to the substance does not occur under normal conditions of use.

(3) Any substance to the extent that it is used for personal, family, or household purposes, or is present in the form and concentration of a product packaged for distribution and use by the general public.

(4) Any substance in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.

(5) Any substance to the extent that it is used in routine agricultural operations, and any fertilizer held for sale by a retailer to the ultimate customer.

(g) "Hazardous substance" means a substance or mixture designated as hazardous by the United States Environmental Protection Agency under 42 U.S.C. 9601(14).

(h) "IEMA" means the Illinois Emergency Management Agency.

(i) "Local Emergency Planning Committee" or "LEPC" means the committee appointed by the SERC in accordance with Section 301(c) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 11001 et seq.).

(j) "Material Safety Data Sheet" or "MSDS" means a completed form recognized by the Occupational Safety and Health Administration, equivalent manufacturer's literature, or another form containing substantially the same information pertaining to a specific hazardous chemical or a mixture containing one or more hazardous chemicals.

(k) "Person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, federal government, or interstate body.

(l) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous chemical, extremely hazardous chemical, or toxic chemical.

(m) "Reportable quantity" is the quantity of an extremely hazardous substance or hazardous substance determined by USEPA under 42 U.S.C. 11002(a) and 42 U.S.C. 9602(a).

(n) "State Emergency Response Commission" or "SERC" means the Illinois Emergency Management Agency as appointed by the Governor in accordance with Section 301 of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 11001 et seq.) to carry out all State responsibilities required by this Act.

(o) "Threshold planning quantity" is the quantity of an extremely hazardous substance determined by USEPA under 42 U.S.C. 11002(a).

(p) "USEPA" means the United State Environmental Protection Agency.

Section 4. Establishment. The Illinois Emergency Management Agency shall be the State Emergency Response Commission for the purpose of implementing the provisions of Title III of the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499) at the State level, and shall perform all the functions of a SERC under that Act. The Director of the IEMA shall be the Chairman of the SERC.

Section 5. Advisory Committee. The SERC may establish advisory committees composed of individuals from both the public and private sectors to advise the Chairman of the SERC on any matters relating to the implementation of Title III of the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499). Advisory committees shall be organized by the Chairman as necessary to address specific issues relating to this Act.

Section 6. Cooperative agreements. The SERC shall cooperate and may enter into such agreements with other State agencies, local governments, the federal government and other persons as the Chairman determines to be appropriate to implement Title III of the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499).

Section 7. Reporting requirements.

(a) The provisions of Sections 302(c), 303(d), 304, 311, 312 and 323 of the Federal Act, as incorporated into this Act, pertaining to the providing of information and giving of notification, shall be considered the law of this State and shall apply equally to all facilities subject to the Federal Act.

(b) The SERC shall adopt, within 120 days after the effective date of this Act, regulations or amendments thereto which are identical in substance to regulations or amendments thereto promulgated by the Administrator of the United States Environmental Protection Agency to implement these specified Sections of Title III of the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499). The rulemaking provisions of Section 5 of the Illinois Administrative Procedure Act shall not apply to regulations or amendments thereto adopted pursuant to this paragraph.

(c) The SERC may adopt additional regulations relating to the Federal Act that are not inconsistent with and at least as stringent as other regulations promulgated pursuant to the Federal Act. Regulations adopted pursuant to this subsection shall be adopted in accordance with the procedures for rulemaking in Section 5 of The Illinois Administrative Procedure Act.

Section 8. Local emergency planning committees.

(a) The SERC shall appoint and supervise local emergency planning committees in accordance with Section 301 of the Federal Act.

(b) Local emergency planning committees shall carry out all responsibilities of a local emergency planning committee as specified in applicable Sections of the Federal Act. Committees shall consult and coordinate with the SERC and such other local organizations as may be necessary to carry out their assigned responsibilities.

#### Section 9. Emergency planning.

(a) Beginning 90 days after the effective date of this Act, it shall be a violation of this Section for the owner or operator of a facility subject to the requirements of Section 302 of the Federal Act to fail to notify the SERC that such facility is subject to the requirements of such Section, as required by the Federal Act.

A facility is subject to the requirements of this Section if a substance on the list referred to in Section 302(a) of the Federal Act is present at the facility in an amount in excess of the threshold planning quantity established for such substance.

(b) If a substance on the list of extremely hazardous substances referred to in Section 302(a) of the Federal Act first becomes present at a facility subject to this Section in excess of the threshold planning quantity established for such substance, or if there is a revision of such list and the facility has present a substance on the revised list in a quantity exceeding the threshold planning quantity established for such substance, the owner or operator of the facility shall notify the SERC and the LEPC within 60 days after such acquisition or revision, or within 90 days after the effective date of this Act, whichever is later, that such facility is subject to the requirements of this Section.

(c) Beginning 90 days after the effective date of this Act, it shall be a violation of this Section for the owner or operator of a facility subject to the requirements of Section 302 of the Federal Act to fail to notify the LEPC of a facility representative who will participate in the emergency planning process as a facility emergency coordinator as required by Section 303(d)(1) of the Federal Act. The owner or operator of the facility shall promptly inform the LEPC of any relevant changes occurring at such facility as such changes occur or are expected to occur. Upon request from the SERC or the LEPC, the owner or operator of the facility shall promptly provide information necessary for developing, implementing and improving the emergency plan.

#### Section 10. Release notification.

(a) If a release requiring notification under Section 304 of the Federal Act or under Section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) occurs from a facility at which a hazardous chemical is produced, used or stored, the owner or operator of the facility shall immediately provide notice as described in subsection (b).

(b) Notice required under this Section shall be given immediately after the release by the owner or operator of the facility (by such means as telephone, radio or in person) to the community emergency coordinator designated by the LEPC for any area likely to be affected by the release and to the SERC of any State likely to be affected by the release. The SERC shall submit any such notification report to the appropriate LEPC. With respect to transportation of a substance subject to the requirements of this Section, or storage incident to such transportation, the notice requirements of this Section with respect to a release shall be satisfied by calling the local fire department of the affected area, the sheriff's office of the affected county, or the 911 emergency number.

(c) Notice required under this Section shall include each of the following (to the extent known at the time of the notice and so long as no delay in responding to the emergency results):

- (1) the chemical name or identity of any substance involved in the release;
- (2) an indication of whether the substance is on the list referred to in Section 302(a) of the Federal Act;
- (3) an estimate of the quantity of any such substance that was released into the environment;
- (4) the time and duration of the release;
- (5) the medium or media into which the release occurred;
- (6) any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals;
- (7) proper precautions to take as a result of the release, including evacuation (unless such information is readily available to the community emergency coordinator pursuant to the emergency plan); and,
- (8) the name and telephone number of the person or persons to be contacted for further information.

(d) As soon as practicable after a release which requires notice under this Section, the owner or operator shall provide a written follow-up emergency notice (or notices, as more information becomes available) setting forth and updating the information required under subsection (c), and including additional information with respect to:

- (1) actions taken to respond to and contain the release;
- (2) any known or anticipated acute or chronic health risks associated with the release; and
- (3) where appropriate, advice regarding medical attention necessary for exposed individuals.

(e) This Section does not apply to any release which results in exposure to persons solely within the site or sites on which a facility is located. This Section does apply to transportation and storage incident to such transportation.

#### Section 11. MSDS.

(a) The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act (15 U.S.C. 651 et seq.) shall, in accordance with the threshold levels for reporting established by regulations promulgated under the Federal Act, submit a material safety data sheet for each such chemical, or a list of such chemicals as described in subsection (b), to each of the following:

- (1) the appropriate local emergency planning committee;
- (2) the State Emergency Response Commission; and
- (3) the fire department with jurisdiction over the facility.

(b) The list of chemicals referred to in subsection (a) shall include all of the following:

- (1) A list of the hazardous chemicals for which a material safety data sheet is required under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act, grouped in categories of health and physical hazards as set forth under such Act and regulations promulgated under such Act, or in such other categories as the Administrator may prescribe.
- (2) The chemical name or the common name of each such chemical as provided on the material safety data sheet.
- (3) Any hazardous component of each such chemical as provided on the material safety data sheet.

(c) An owner or operator may meet the requirements of this Section with respect to a hazardous chemical which is a mixture by doing one of the following:

- (1) Submitting a material safety data sheet for, or identifying on a list, each element or compound in the mixture which is a hazardous chemical. If more than one mixture has the same element or compound, only one material safety data sheet, or one listing, of the element or compound is necessary; or
- (2) Submitting a material safety data sheet for, or identifying on a list, the mixture itself.

(d) Beginning 90 days after the effective date of this Act, it shall be a violation of this Section for the owner or operator of a facility subject to the requirements of this Section to fail to submit an MSDS form as required by Section 311(d) of the Federal Act, or within 3 months of the date the owner or operator is required to prepare or have available a MSDS for the chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act.

(e) Within 3 months following discovery by an owner or operator of significant new information concerning an aspect of a hazardous chemical for which a material safety data sheet was previously submitted to the local emergency planning committee under subsection (a), a revised sheet shall be provided to such person.

## Section 12. Inventory forms.

(a) The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act shall, in accordance with the threshold levels for reporting as established by regulations promulgated under the Federal Act, prepare and submit an emergency and hazardous chemical inventory form (hereinafter in this Act referred to as an "inventory form") to each of the following:

- (1) the appropriate local emergency planning committee;
- (2) the State Emergency Response Commission; and
- (3) the fire department with jurisdiction over the facility.

The inventory form shall be submitted annually on or before March 1, and shall contain tier I data with respect to the preceding calendar year.

(b) The requirement of subsection (a) does not apply if an owner or operator provides, to the recipients described in subsection (a), by the same deadline and with respect to the same calendar year, an inventory form containing tier II information.

(c) An owner or operator may meet the requirements of this Section with respect to a hazardous chemical which is a mixture by doing one of the following:

(1) Providing information on the inventory form on each element or compound in the mixture which is a hazardous chemical. If more than one mixture has the same element or compound, only one listing on the inventory form for the element or compound at the facility is necessary.

(2) Providing information on the inventory form on the mixture itself.

(d) A hazardous chemical shall be subject to the requirements of this Section only if it is a hazardous chemical for which a material safety data sheet or a listing is required under Section 311 of the Federal Act.

(e) A tier I inventory form shall provide the following information in aggregate terms for hazardous chemicals in categories of health and physical hazards as set forth under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act:

(1) an estimate (in ranges) of the maximum amount of hazardous chemicals in each category present at the facility at any time during the preceding calendar year;

(2) an estimate (in ranges) of the maximum amount of hazardous chemicals in each category present at the facility at any time during the preceding calendar year; and

(3) the general location of hazardous chemicals in each category.

(f) A tier II inventory form shall provide the following additional information for each hazardous chemical present at the facility, but only upon request and in accordance with subsection (g);

(1) the chemical name or the common name of the chemical as provided on the material safety data sheet;

(2) an estimate (in ranges) of the maximum amount of the hazardous chemical present at the facility at any time during the preceding calendar year;

(3) an estimate (in ranges) of the average daily amount of the hazardous chemical present at the facility during the preceding calendar year;

(4) a brief description of the manner of storage of the hazardous chemical;

(5) the location at the facility of the hazardous chemical; and

(6) an indication of whether the owner elects to withhold location information of a specific hazardous chemical from disclosure to the public under Section 324 of the Federal Act.

(g) Availability of tier II information shall be as follows:

(1) Upon request by the State Emergency Planning Commission, a local emergency planning committee, or a fire department with jurisdiction over the facility, the owner or operator of a facility shall provide tier II information, as described in subsection (g), to the person making the request.

(2) A State or local official acting in his or her official capacity may have access to tier II information by submitting a request to the SERC or the local emergency planning committee. Upon receipt of a request for tier II information, the SERC or local committee shall, pursuant to paragraph (1), request the facility owner or operator for the tier II information and make available such information to the official.

(3) Any person may request the SERC or a local emergency planning committee for tier II information relating to the preceding calendar year with respect to a facility. Any such request shall be in writing and shall be with respect to a specific facility.

(4) Any tier II information which the SERC or a local emergency planning committee has in its possession shall be made available to a person making a request under this paragraph in accordance with Section 324 of the Federal Act. If the SERC or a local emergency planning committee does not have the tier II information in its possession, upon receiving a request for tier II information the SERC or local emergency planning committee shall, pursuant to paragraph (1), request the facility owner or operator for tier II information with respect to a hazardous chemical which a facility has stored in an amount in excess of 10,000 pounds present at the facility at any time during the preceding calendar year and make such information available to the person making the request in accordance with Section 324 of the Federal Act.

(5) In the case of tier II information which is not in the possession of the SERC or local emergency planning committee and which relates to a hazardous chemical which a facility has stored in an amount less than 10,000 pounds present at the facility at any time during the preceding calendar year, a request from a person must include the general need for the information. The SERC or local emergency planning committee may, pursuant to paragraph (1), make a request to the facility owner or operator for the tier II information on behalf of the person making the request. Upon receipt of any information requested on behalf of such person, the SERC or local emergency planning committee shall make the information available to the person in accordance with Section 324 of the Federal Act.

(6) The SERC or local emergency planning committee shall respond to a request for tier II information under this Section no later than 45 days after the date of receipt of the request.

(7) Upon request to an owner or operator of a facility which files an inventory form under this Section by the fire department with jurisdiction over the facility, the owner or operator of the facility shall allow the fire department to conduct an on-site inspection of the facility and shall provide to the fire department specific location information on hazardous chemicals at the facility.

(h) The tier I and tier 2 inventory forms promulgated by USEPA for use in meeting the requirements of Section 312 of the Federal Act may be used to fulfill the requirements of this Section.

Section 13. Trade secrets. The authority to withhold information for trade secret protection under Section 322 of the Federal Act shall be applicable to all facilities subject to the reporting requirements of this Act. All trade secret petitioners must follow the procedures under Section 322 of the Federal Act and regulations adopted thereunder.

Section 14. Health professionals. An owner or operator of a facility subject to the reporting requirements of this Act shall comply with the procedures for providing information to health professionals, doctors and nurses pursuant to Section 323 of the Federal Act.

Section 15. Public availability. The SERC and LEPCs shall make information available to the public upon request in accordance with Section 324 of the Federal Act. All requests for information shall be in writing and subject to the provisions of the Illinois Freedom of Information Act. All costs associated with providing information shall be paid by the requesting person.

Section 16. Enforcement.

(a) The SERC shall have the authority to investigate alleged violations of Sections of this Act and, following written notice to the business, to refer such violations for prosecution by the State's Attorney of the county in which the violation occurred, or by the Attorney General. The State's Attorney or the Attorney General, as the case may be, may, at the request of the SERC or upon his own motion, institute an action for such penalties as are authorized by this Act, as well as for such other remedies, including injunctive relief, as are necessary to restrain or remedy violations of the Act.

(b) Any action authorized by subsection (a) of this Section may be brought in the circuit court in the county where the violation occurred or the circuit court of the county where the defendant is located.

(c) The SERC shall have the authority to investigate violations of Sections of this Act and, following written notice to the business, to refer such violations for prosecution by the United States Environmental Protection Agency.

Section 17. Citizen suits.

(a) Except as provided in subsection (b), any person may commence a civil action on his own behalf against the owner or operator of a facility for failure to do any of the following:

(1) submit a follow up emergency notice required under Section 10(d) of this Act;

(2) submit a material safety data sheet or a list as required under Section 11(a) of this Act;

(3) complete and submit an inventory form containing tier I information required under Section 12(a) of this Act, unless such requirements does not apply by reason of Section 12(b) of this Act.

(b) No action may be commenced under subsection (a) against an owner or operator of a facility if the Administrator of USEPA has commenced and is diligently pursuing an administrative order or civil action to enforce the requirement concerned or to impose a civil penalty under the Federal Act with respect to the violation of the requirement.

Section 18. Penalties.

(a) Any person who violates any requirement of Section 9, 10, 11, 12, or 14 of this Act shall be liable for a civil penalty in an amount not to exceed \$25,000 for each violation. In the case of a second or subsequent violation of Section 10, the civil penalty shall not exceed \$75,000 for each day during which the violation continues.

(b) Any person who knowingly fails to provide immediate notification of a release in violation of Section 10 of this Act, shall be guilty of a Class 4 felony, and in addition to any other penalty prescribed by law is subject to a fine not to exceed \$25,000 for each day of the violation. In the case of a second or subsequent conviction, the person shall be guilty of a Class 3 felony, and in addition to any other penalty prescribed by law is subject to a fine not to exceed \$50,000 for each day of the violation.

(c) All civil penalties and fines collected under this Section shall be deposited in the Emergency Planning and Training Fund, that is hereby created as a special fund in the State Treasury, and shall be used by IEMA, pursuant to appropriation, for its activities arising under this Act and the Federal Act, including providing financial support for local emergency planning committees and for training initiatives authorized by IEMA.

Section 19. Costs. Upon motion of a party prevailing in an action under this Act, the court may award costs of litigation including reasonable attorney and expert witness fees.

Section 20. This Act takes effect upon becoming law.